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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/728,755	Applicant(s) GEORGE ET AL.
Examiner John M. MacLwinen	Art Unit 2442

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 31, 33-35, 37-41, 44-47, 50 and 51.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Philip C Lee/
Primary Examiner, Art Unit 2448

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments filed 03/19/2010 have been fully considered but they are not persuasive.

A. Applicant argues on page 12 that:

Applicants respectfully disagree and again submit that neither primary reference Nagar nor secondary reference Lee nor any other reference currently of record is reasonably directed to the problem of being able to capture a complete dialog between a user on a browser and a specific web site.

In response to A:

Nagar is directed to capturing a dialog between a user on a browser and a specific website. Fig. 3 of Nagar shows said user on a browser (item 305, client, described in col. 7 lines 21 - 22 as a web browser), a proxy server 300 that performs said capture of dialog and a specific website (item 325, server, described in col. 2 line 46 as a "web server").

Nagar, in Fig. 3, shows both the request from the user and the response from the server being captured by the proxy.

B. Applicant continues on page 12, arguing that:

That is, the claimed invention is directed to the problem not even described in any of the references currently of record of being able to completely capture dialog with a website.

In response to B:

As noted above, Nagar shows capturing both a request and a response in Fig. 3 as all the traffic between the client and server moves through the proxy which captures the dialog.

Where Applicant has more explicitly claimed the method of ensuring that the dialog is completely captured (such as by adding addresses to requests and responses, in lines 9 - 12 of claim 1), the teachings of Lee have been relied upon as noted in the Final Rejection mailed 01/19/2010.

C. On page 13, Applicant argues that:

In contrast [to the claim language], primary reference Nagar has nothing to do with capturing a dialog with a website. Rather, its purpose is filtering and, more specifically, providing a mechanism so that filtering can be dynamically updated.

In response to C:

Nagar explicitly teaches capturing a dialog with a website. Nagar shows, in Fig. 3, a proxy capturing a request from a client to a server, where said server may be a "web server" (Nagar, col. 2 line 46).

Nagar also teaches where the proxy may perform "logging of request and responses" (col. 6 lines 51 - 53 and col. 7 line 65 - 66).

Nagar also shows where the captured information can be filtered in order to control the data a client may receive, thus preventing, for example, the client from receiving objectionable data (col. 6 lines 28 - 30).

That Nagar teaches filtering does not prevent Nagar from additionally teaching the capturing and logging of data.

D. Continuing on page 13, Applicant argues that:

There is nothing in Nagar that has any relationship with the purpose of the claimed invention. In paragraph 2 on page 2 of the latest Office Action, the Examiner points to line 53 of column 6 of Nagar: "... other functions including logging the responses and requests". However, Applicants submit that this capability of logging mentioned in this line of Nagar does not in any way change the intent and mechanism of Nagar into capturing the complete dialog with a website under evaluation.

In response to D:

Nagar's disclosure is directed to a method of capturing data between a client and a server, said capturing being performed by a proxy. This is clearly illustrated in the representative figure (Fig. 3) shown on the cover page of Nagar.

Nagar continues in col. 5 lines 49 - 55 describing that "Fig. 3 is a pictorial diagram of the proxy server architecture used to filter information in a manner consistent with the exemplary embodiment of the present invention".

Nagar continues in col. 6 lines 50 - 55 describing that "The proxy server processing may also perform other functions in addition to applying the filter servlet. These other functions include logging the responses and requests".

In Nagar, teaching logging of both responses and requests represents the capturing of a complete dialog, said dialog being an exchange of responses and requests.

Where Applicant's claim language more specifically claims how the dialog is captured completely, Lee for example has been relied upon (where Lee is cited as teaching adding the address of an intermediary node to requests and responses; see Lee, [52]).

Nagar additionally teaches filtering the captured information; however, information cannot be filtered until it is captured (i.e., information that the proxy is unaware of could not be filtered by said proxy).

E. Next on page 13, Applicant argues that:

Indeed, if the user in Nagar changes to a second website, the entire purpose of Nagar is to change the filter appropriate for that new website

In response to E:

Applicant's argument relying on their interpretation of "the entire purpose of Nagar" is unpersuasive. Nagar describes their disclosure as performing "logging" in col. 6 line 53 and col. 7 line 66.

As the Applicant notes, Nagar does teach filtering of information. However, Nagar relies on capturing and analyzing information in order to determine whether it should be filtered (Nagar, col. 5 line 67 - col. 6 line 3).

Nagar also teaches utilizing their disclosure for "other administrative functions ... such as logging". Nagar thus feels their disclosure's purpose includes logging/capturing of information.

F. Concluding page 13 and moving to page 14, Applicant argues that:

Even if all responses and requests to all websites visited in Nagar were to be logged, there still is no intent in Nagar to consider these visits as constituting a single dialog with the first website, let alone a dialog considered to terminate by a selection of one of the URLs specifically identified in the final claim limitation.

In response to F:

Nagar was not relied upon to teach this claim language. Nagar in view of Lee and Eshghi were relied upon and addresses these claim limitations.

Nagar is directed to a method of monitoring a user's dialog with a web server in order to prevent objectionable material from reaching the user (Nagar, Fig. 3, col. 3 lines 50 - 52, col. 6 line 29, col. 7 lines 19 - 21). Nagar achieves this by capturing said dialog and analyzing the information captured to determine if any information should be filtered (Nagar, col. 5 line 67 - col. 6 line 3).

Lee is also directed to a method of monitoring content exchanged between a user and a web server. Like Nagar, Lee is concerned with capturing the information exchanged as well as filtering objectionable content (Nagar, Fig. 3, col. 3 lines 50 - 52, col. 6 line 29, col. 7 lines 19 - 21; and Lee, [16-20]). Also like Nagar, Lee achieves said capturing and filtering through the use of a proxy server (Nagar, Fig. 3, Lee, [20]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar with the known work of Lee in the same field of endeavor in order to improve the effectiveness of the capturing and filtering taught by Nagar with the improved techniques of Lee (Nagar, col. 6 line 29 and Lee, [16-21]).

Utilizing the prior art element of improved capturing and filtering taught by Lee ([16-21]) according to known methods would yield the predictable result of improved capturing and filtering and thus improve control over the content received by users, enabling, for example, improved network security and better control over objectionable content (Lee, [19-20]).

Eshghi, like Nagar and Lee, also teaches a method of capturing a user's interactions with a web server. Eshghi, Nagar and Lee are all specifically concerned with web server and web site requests (Eshghi, [11-12]; Nagar, col. 3 lines 50 - 52, col. 7 lines 19 - 21; Lee, [39]). Like Nagar and Lee, Eshghi utilizes a device other than the requesting client and the content server (Nagar, Fig. 3; Lee, Fig. 2; Eshghi, Fig. 1). Also like Nagar and Lee, Eshghi utilizes the capturing and monitoring of a dialog in an effort to improve the user experience (Nagar, col. 6 line 29; Lee, [19-21] and Eshghi, [8]). Unlike Nagar and Lee, who focus on removing objectionable content to improve the user experience, Eshghi considers improving user experience through the monitoring of server response times.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee with that of Eshghi in order to continue the goals of Nagar in view of Lee of monitoring and capturing dialogs in order to improve the user experience (Nagar, col. 6 lines 29 - 34, Lee, [19-21]) by additionally considering that user's are impacted by server response times and thus utilizing and Eshghi's consideration of additionally criteria (response times) to further the goals of Nagar in view of Lee (Eshghi, [8]).

Furthermore, Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee with that of Eshghi by using Eshghi's known technique of improving response times through the monitoring of dialogs ([8-12]) in order to improve the similar monitoring devices way (all three disclosures using a 3rd server separate from the content requestor and content provider) of Nagar in view of Lee in the same way.

G. Continuing on page 14, Applicant argues that:

The fundamental problem with this rationale is that it makes no sense in the context of primary reference Nagar, given Nagar's purpose of filtering

In response to G:

As the Examiner noted above, Nagar is not solely considered with the filtering of content; rather Nagar has a variety of goals which include content filtering, capturing and logging of data and improving user experience (Nagar, col. 6 lines 21 - 34, col. 6 lines 50 - 55).

H. Next on page 14, Applicant argues that:

Stated differently, the modification of Nagar by secondary reference Lee, as urged by the Examiner, would not be an improvement in the context of Nagar, as would be required under the holding of KSR, and is clear evidence of improper hindsight.

In response to H:

As noted above, Lee indeed improves on the teachings of Nagar by better ensuring that all of the dialog is captured for logging, analysis and filtering; that is: Nagar is directed to a method of monitoring a user's dialog with a web server in order to prevent objectionable material from reaching the user (Nagar, Fig. 3, col. 3 lines 50 - 52, col. 6 line 29, col. 7 lines 19 - 21). Nagar achieves this by capturing said dialog and analyzing the information captured to determine if any information should be filtered (Nagar, col. 5 line 67 - col. 6 line 3).

Lee is also directed to a method of monitoring content exchanged between a user and a web server. Like Nagar, Lee is concerned with capturing the information exchanged as well as filtering objectionable content (Nagar, Fig. 3, col. 3 lines 50 - 52, col. 6 line 29, col. 7 lines 19 - 21; and Lee, [16-20]). Also like Nagar, Lee achieves said capturing and filtering through the use of a proxy server (Nagar, Fig. 3, Lee, [20]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar with the known work of Lee in the same field of endeavor in order to improve the effectiveness of the capturing and filtering taught by Nagar with the improved techniques of Lee (Nagar, col. 6 line 29 and Lee, [16-21]).

Utilizing the prior art element of improved capturing and filtering taught by Lee ([16-21]) according to known methods would yield the predictable result of improved capturing and filtering and thus improve control over the content received by users, enabling, for example, improved network security and better control over objectionable content (Lee, [19-20]).

I. Concluding page 14, Applicant argues that:

Applicants again point out that "measuring additional information and better correlating gather data" would not be an improvement in the context and purpose Nagar (e.g., filtering requests and responses) and, indeed, would only consume time away from the

task of filtering, thereby causing needless delays to Nagar's filtering mechanism

In response to I:

Contrary to Applicant's assertion, Nagar teaches measuring, gathering and analyzing which may be performed as part of the filtering process (col. 5 line 67 - col. 6 line 3). Improving the steps already taught by Nagar thus would not "cause needless delays".

J. Beginning on page 15, Applicant argues that:

Moreover, the Examiner's rationale would inherently change the principle of operation of the filtering described in Nagar

In response to J:

Applicant's unsupported assertion is not persuasive. As noted above, Nagar is not merely directed to filtering. Furthermore, as noted above, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar with the known work of Lee in the same field of endeavor in order to improve the effectiveness of the capturing and filtering taught by Nagar with the improved techniques of Lee (Nagar, col. 6 line 29 and Lee, [16-21]).

Utilizing the prior art element of improved capturing and filtering taught by Lee ([16-21]) according to known methods would yield the predictable result of improved capturing and filtering and thus improve control over the content received by users, enabling, for example, improved network security and better control over objectionable content (Lee, [19-20]).

K. Continuing page 15, Applicant argues that:

Applicants respectfully submit that Nagar's filtering mechanism would not be improved by "gathering and then enabling the utilization of additional information" and that "improving the enduser's experience" is not related to the filtering of Nagar.

In response to K:

Applicant's arguments against improving the teachings of Nagar remain unpersuasive for the reasons given above. Regarding the disclosure of Jawahar, like Nagar in view of Lee and Eshghi, Jawahar teaches monitoring a dialog between a two computers (Abstract). When providing teaches directed to maximizing the utility of said monitoring, Jawahar considers monitoring information not anticipated by Nagar in view of Lee and Eshghi ([86]). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee and Eshghi with that of Jawahar in order to gather and then enable the utilization of additional information, further improving the end-user experience (where Nagar, Eshghi and Lee all also teach gathering and utilizing information to improve user experience, col. 5 line 67 - col. 3 line 3, col. 6 lines 29 - 21; Lee, [19-21]; and Eshghi, [8-12]).

L. Next on page 15, Applicant argues that:

Moreover, the principle of operation Nagar would inherently have to change to accommodate this new feature being added by the Examiner's modification and such change in principle of operation is not permitted in an obviousness evaluation, as clearly described by the above-recite holding from Ratti.

In response to L:

Contrary to Applicant's assertion, Nagar teaches measuring, gathering and analyzing which may be performed as part of the filtering process (col. 5 line 67 - col. 6 line 3). Improving the steps already taught by Nagar thus would not cause a "change in the principle of operation".

M. Concluding page 15, Applicant argues that:

Again, the fundamental deficiency with this rationale is that Nagar sole purpose is filtering; it does not perform any analysis. Therefore, the Examiner has failed to demonstrate that anything in Plante would provide an improvement to Nagar's simple application of filtering rules, since the application of these rules is not determined by analyzing content.

In response to M:

As the Examiner noted above, Nagar is not solely considered with the filtering of content; rather Nagar has a variety of goals which include content filtering, capturing and logging of data and improving user experience (Nagar, col. 6 lines 21 - 34, col. 6 lines 50 - 55).

In direct contradiction to Applicant's above assertion, Nagar clearly teaches application of filtering rules being determined by analyzing content (col. 5 line 67 - col. 6 line 3).

N. Beginning on page 16, Applicant argues that:

None of the reference currently of record even recognizes this problem of making a complete logging of a dialog involving a website...

In response to N:

As noted above, Nagar shows a complete logging of content by capturing and logging both requests and responses. Lee is explicitly directed to improving the capturing of content to better ensure that complete content is captured (Lee, [16-19]) where Lee, like Nagar, operate in a web server and website environment and explicitly discuss capturing and logging of website requests (Lee, [39] and Nagar, col. 3 lines 50 - 52, col. 7 lines 19 - 21).

O. Continuing on page 16, Applicant argues that:

...let alone set up a mechanism so that the capture and analysis of that dialog continues even after the user goes to another website and continuing until the dialog with the first website is determined to be completed by making specific URL changes

In response to O:

As noted above and cited in the Final Rejection mailed on 1/29/2010, Eshghi explicitly teaches this behavior in [34].

P. Next on page 16, Applicant argues that:

However, as pointed out above, the mechanism described in Eshghi has nothing to offer as an improvement to the filtering purpose of primary reference Nagar and would only impose the burden of needlessly taking time away from Nagar's filtering tasks and would improperly change its principle of operation.

In response to P:

As noted above, Eshghi, like Nagar and Lee, also teaches a method of capturing a user's interactions with a web server. Eshghi, Nagar and Lee are all specifically concerned with web server and web site requests (Eshghi, [11-12]; Nagar, col. 3 lines 50 - 52, col. 7 lines 19 - 21; Lee, [39]). Like Nagar and Lee, Eshghi utilizes a device other than the requesting client and the content server (Nagar, Fig. 3; Lee, Fig. 2; Eshghi, Fig. 1). Also like Nagar and Lee, Eshghi utilizes the capturing and monitoring of a dialog in an effort to improve the user experience (Nagar, col. 6 line 29; Lee, [19-21] and Eshghi; [8]). Unlike Nagar and Lee, who focus on removing objectionable content to improve the user experience, Eshghi considers improving user experience through the monitoring of server response times.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee with that of Eshghi in order to continue the goals of Nagar in view of Lee of monitoring and capturing dialogs in order to improve the user experience (Nagar, col. 6 lines 29 - 34, Lee, [19-21]) by additionally considering that user's are impacted by server response times and thus utilizing and Eshghi's consideration of additionally criteria (response times) to further the goals of Nagar in view of Lee (Eshghi, [8]).

Furthermore, Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the disclosure of Nagar in view of Lee with that of Eshghi by using Eshghi's known technique of improving response times through the monitoring of dialogs ([8-12]) in order to improve the similar monitoring devices way (all three disclosures using a 3rd server separate from the content requestor and content provider) of Nagar in view of Lee in the same way.

Q. Continuing on page 16, Applicant argues that:

Moreover, the mechanism in Eshghi is not related to capturing a complete dialog with a website by redirecting requests and responses through an intermediary. Rather, the mechanism in Eshghi, as shown in Figure 3, involves a downloading of monitoring files to the user's browser so that events on the browser can be monitored (see steps 312- 322). This is an entirely different mechanism from that used in the present invention.

In response to Q:

In response to applicant's argument that Eshghi teaches downloading monitoring files, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

R. Concluding page 16 and moving to page 17, Applicant argues that:

Indeed, if Eshghi were to be considered as providing a mechanism to evaluate a dialog with a specific website, including meanderings to other websites, then Eshghi clearly demonstrates that another entirely different mechanism was known in the art to achieve this purpose, thereby providing objective evidence that the mechanism of the claimed invention is indeed a novel method to achieve this result.

In response to R:

Applicant's assertion is not persuasive. For the reasons given above, Nagar in view of Lee and Eshghi teach Applicant's independent claims. Applicant's assertion that Nagar in view of Lee and Eshghi uses an "entirely different mechanism" is not persuasive as Applicant has not established claim language that is not taught by the above references.

S. Next on page 17, Applicant argues that:

The claimed invention achieves this result by capturing all the requests and responses of this dialog by setting up an intermediary node; Eshghi achieves the evaluation of the dialog by monitoring the events in the requestor's browser.

In response to S:

In response to applicant's argument that Eshghi achieves evaluation of the dialog by monitoring the events in the requestor's browser, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Applicant's arguments thus are not persuasive for at least the reasons given above..